



OFFICE OF THE JUDGE ADVOCATE GENERAL ARMY STANDARDS OF CONDUCT OFFICE

Ethics Briefing
Armed Forces Epidemiological Board
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Agenda

- Sources of Ethics Law
- Principles of Ethical Conduct
- Conflicts of Interest
- Teaching, Speaking, and Writing
- Other Issues
- Conclusion/Questions



Sources of Ethics Law and Guidance

- Principles of Ethical Conduct
- Standards of Conduct
(http://www.usoge.gov/pages/forms_pubs_otherdocs/fpo_files/reference/rfsoc_02.pdf)
- Joint Ethics Regulation (
http://www.defenselink.mil/dodgc/defense_ethics/index.html)
- 18 U.S.C. §§ 201 - 209



Principles of Ethical Conduct

- Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
- Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.



Principles of Ethical Conduct (cont)

- An employee shall not, except as permitted, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
- Employees shall put forth honest effort in the performance of their duties.
- Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.



Principles of Ethical Conduct (cont)

- Employees shall not use public office for private gain.
- Employees shall act impartially and not give preferential treatment to any private organization or individual.
- Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
- Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
- Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.



Principles of Ethical Conduct (cont)

- Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.
- Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
- Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.



Conflicts of Interest

- The Public expects their government to be fair and impartial.
- We cannot have conflicts of interest and still be impartial.
- Avoiding conflicts--and improper influence--is our ethics foundation.





Conflicts of Interest

18 U.S.C. § 208

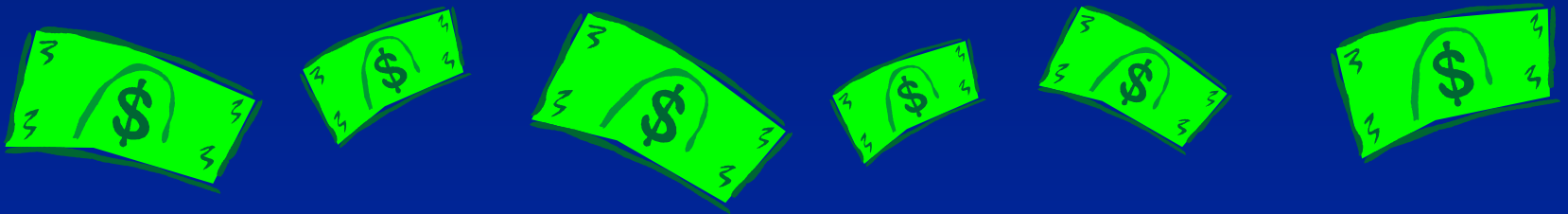
- May not participate personally and substantially through decision, approval, recommendation, advice, investigation or otherwise--
- In a judicial proceeding, application, ruling, determination, contract, claim, controversy, charge, or other particular matter--
- In which you , your spouse, minor child, partner, organization in which you are an officer or employee, or company with whom you are negotiating for employment---
- Has a financial interest.



Conflicts of Interest

Elements

- May not participate
- Personally & substantially
- In a particular matter
- Direct & predictable effect
- On employee's financial interest (includes spouse and minor children)





Conflicts of Interest

What to Do

- Disqualification is *automatic*!
- Reassignment
- Change of duties
- Divestiture - Certificate of Divestiture
- Waivers
 - Regulatory
 - Individual



Conflicts of Interest

Appearance of Conflict of Interest

- Would a “reasonable person in possession of the relevant facts” see anything wrong?
- This rule covers any appearance of impropriety.
- Conflicts with the interests of someone with whom you have a “covered relationship.”



Conflicts of Interest

Appearance of Conflict of Interest (cont)

- Impartiality is judged on all of the relevant facts. This is not a “Jack Anderson” or “Washington Post” test.
- The “reasonable person” is your supervisor, and he or she is the one who weighs





Conflicts of Interest

“Covered Relationships”

- Non-employment business relationships.
- Relatives (not otherwise covered by 18 U.S.C. 208).
- Organizations in which you were an officer, employee or consultant during the last year, or--
- Where your relatives are officers, and--
- Organizations in which you are active.



Appearance of Conflicts of Interest

What to Do

Same as for actual conflicts, except

- Individual waiver does not involve OGE
- No regulatory waivers





Teaching Speaking & Writing

5 C.F.R. 2635.807

An employee, including a special Government employee, shall not receive compensation from any source other than the Government for teaching, speaking or writing that relates to the employee's official duties.



Teaching Speaking & Writing

General Rules

Teaching, speaking or writing relates to the employee's official duties if:

- The activity is undertaken as part of the employee's official duties;
- The invitation to engage in the activity was extended to the employee primarily because of his official position rather than his expertise;
- The invitation to engage in the activity or the offer of compensation was extended to the employee by a person who has interests that may be affected substantially by the employee's official duties;
- The information conveyed through the activity draws substantially on ideas or official data that are nonpublic information as defined in 5 C.F.R. 2635.703(b)



Teaching Speaking & Writing

General Rules (continued)

Teaching, speaking or writing relates to the employee's official duties if:

- The subject of the activity deals in significant part with:
 - Any matter to which the employee presently is assigned or to which the employee had been assigned during the previous one-year period;
 - Any ongoing or announced policy, program or operation of the agency; or
 - In the case of a noncareer employee, the general subject matter area, industry, or economic sector primarily affected by the programs and operations of his agency.
- Special exceptions for SGEs regarding the above limitations—**call me.**



“Emoluments Clause”

U.S. Constitution, Article I, § 9, Clause 8

“No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.”



“Emoluments Clause”

Applicability to SGEs

- Office of Legal Counsel has applied the Clause to SGEs.
- Test has hinged on whether the SGE has occupied an “Office of Profit or Trust.”
- Factors include frequency of meeting, compensation received, oath, and access to classified information.
- Bottom line—the Clause applies to members of AFEB while under appointment.



Conclusion